

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appn. No: 10/574,386  
Applicant: Brian Barney et al.  
Filed: April 21, 2008  
Title: DRY POWDER INHALATION APPARATUS  
TC/A.U.: 3764  
Examiner: Peter S. Vasat  
Confirmation No.: 2232  
Docket No.: TEVE-125US

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S I R :

This is in response to the Restriction Requirement stated in the Office Letter dated June 24, 2011. The Examiner requires that one of the Figures be elected for prosecution. **Applicants elect to prosecute Figure 3.** The claims which are readable on the elected species are claims 1-3, 30 and 31. This election is made with traverse because the Applicants dispute the Office Action's statement that U.S. Patent No. 5,033,463 to Cocozza anticipates claims 1-3, and, therefore those claims do not contain a special technical feature. Claim 1 recites:

A dry powder inhalation apparatus, comprising a reservoir for medicament, a mouthpiece for insertion in the mouth of a user for inhalation of a predetermined dose of medicament, a delivery channel between a discharge outlet of the reservoir and the mouthpiece for delivering said predetermined dose of medicament, a device normally held adjacent the reservoir for receiving said predetermined dose of medicament from said discharge outlet and transferring it to the delivery channel, and a mechanism adapted to release the device and permit controlled movement thereof to the delivery channel for said delivery.

Emphasis Added. In Cocozza, the cup 120 is not "held" adjacent the reservoir by another object. Cocozza's cup 120 is freely rotatable via knob 112. Because Cocozza's cup 120 is not "held" by another object, it follows that the cup 120 is not "released" by another object. Thus, claim 1 recites features that are neither disclosed nor suggested by Cocozza. Because Cocozza does not anticipate sole independent claim 1, there exists a technical relationship among the inventions